
From: Wiesner, Ryan M. <RWiesner@dkattorneys.com >
Sent: Wednesday, August 05, 2020 11:47 AM
To: Jason Gehring
Cc: Skwierawski, M. Andrew
Subject: Re: Somers House Litigation
Attachments: Final [Proposed] Second Amended Complaint (14240125).pdf

Hi Jason,

Thanks for your quick response last night. I'm attaching a copy of our proposed Second Amended Complaint, with the limited additions highlighted in gray. As you can see, the new pleading does not add any new factual allegations or substantive claims; it only asserts a request for declaratory relief on the constitutionality of section 12.15(C).

The constitutionality of the Village's ordinance is a key issue in this matter—as it directly relates to our claims that Defendants' specifically crafted the ordinance to disfavor Somers House (per the Cardinali testimony) and concerns our discussion from last week on your merits defenses, i.e., that regardless of Cardinali's claims, your clients had the authority/discretion to restrict our cabaret license under that ordinance. Somers House does not agree with that interpretation. Most importantly, the constitutionality of the ordinance is a question of law, not fact. That issue will not require any new discovery and can be decided strictly on legal arguments, via a motion from Somers House.

Please speak with your clients and let me know your thoughts. I, however, want to get this issue before the Court in a timely fashion (given the looming deadlines) so we are planning to file an expedited motion asking for leave to amend—that motion should come through shortly.

I still ask that you speak with your clients concerning consenting to the amendment. If your clients end up giving consent for the new pleading I will promptly withdraw the motion and prepare & file a stipulation confirming the parties' consent to the amendment. Thanks in advance.

Ryan



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Exhibit C
